

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Hospice Services (LAC 50:XV.3101 and 3501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.3101 and §3501 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for hospice services provided to long-term care residents to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions governing hospice services in order to bring these provisions into compliance with the requirements of the Patient Protection and Affordable Care Act (PPACA), and also amended the provisions governing prior authorization for hospice services in order to control the escalating costs associated with the Hospice Program (*Louisiana Register*, Volume 38, Number 3).

Due to a budgetary shortfall in state fiscal year 2013, the department has determined that it is necessary to amend the provisions governing the hospice program in order to discontinue new enrollments in the program. Recipients enrolled in the Hospice Program prior to February 1, 2013 will continue to receive hospice services. These provisions shall not apply to the provision of hospice services under the EPSDT program. Hospice is an optional service covered under the Medicaid State Plan. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$4,164,273 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Hospice Program in order to terminate new enrollments into the program.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 3. Hospice

#### Chapter 31. General Provisions

##### §3101. Introduction

A. - C. ...

D. Effective February 1, 2013, the Medicaid Program shall terminate new enrollments into the Hospice Program. Recipients currently receiving Medicaid covered hospice services prior to February 1, 2013 will continue to receive hospice care until they no longer meet the criteria for the program. This termination shall not apply to the provision of hospice services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### Chapter 35. Recipient Eligibility

##### §3501. Election of Hospice Care

A. ...

1. Effective February 1, 2013, persons not having previously elected or currently receiving hospice care will not be eligible for hospice unless they have already been approved for hospice care through the Medicaid Program. These provisions shall not apply to the provision of hospice services under the EPSDT program.

2. Persons who were receiving Medicaid covered hospice care prior to February 1, 2013 will continue to receive services until they no longer meet the criteria for hospice care.

B. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1466 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein  
Secretary

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